(1) (2)

Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

W.P.NO. 4928 /2004

PETITIONER C.G.RAJYA SAHAKARI AWAS SANGH MARYADIT RAIPUR THROUGH MANAGING DIRECTOR (CHHATTISGARH RAJYA SAHAKARI AWAS SANGH MARYADIT, C-230 SHAILENDRA NAGAR RAIPUR) REGISTERED. NO. 220. DATED 31.10.2000.

P.R. No. A 9411 Presented by Shri Ajay Dated 7-12-04

VERSUS

RESPONDENTS

1. SUNDER NAGAR GRIH NIRMAN SAHAKARI SAMITI MARYADIT SUNDER NAGAR RAIPUR.

2. KRISHNA RAO JADHAW S/O SHRI YADAV RAO JADHAW D-66 SECTOR-2 DEVENDRA NAGAR RAIPUR.

3. JOINT REGISTRAR CO-OPERATIVE SOCIETIES RAIPUR C.G.

4. DEPUTY REGISTRAR CO-OPERATIVE SOCIETIES RAIPUR C.G.

5. Vth ADDITIONAL DIRTRICT JUDGE RAIPUR C.G.

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA. FOR ISSURANCE OF AN APPROPRIATE RIT IN THE NATURE OF MANDAMUS/CERTIORARI ETC. OR DIRECTION(S)/ORDER(S) IN THE LIKE NATURE ETC.

(74)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP No. 99/2804 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	10.2.2005 On a mention being made, the case is taken up for hearing. Dr. N.K. Shukla, Senior Advocate with Shri Y. Kailash Rao, Advocate for the petitioner. Shri Anant Bajpai with Shri Parag Kotecha, Advocates for respondent No.2. Heard. The main contest is between the petitioner and respondent No.2. Therefore, there is no need to issue notices to other parties i.e. respondent No.1; Joint Registrar, Co-operative Societies, Raipur; Deputy Registrar, Co-operative Societies, Raipur; and 5th Additional District Judge, Raipur (respondents No.1, 3, 4 and 5), as such, the matter is being finally disposed of, at this stage. By this writ petition under Article 226/227 of the Constitution of India, the petitioner has questioned the legality, propriety and correctness of the order dated 7.12.2004 passed by the 5th Additional District Judge, Raipur, whereby the learned Additional District Judge has refused to act in accordance with the order dated 29.11.2004 passed by the Joint Registrar in his appellate jurisdiction on the ground that his Court i.e. the Court of Additional District Judge is not subordinate to the Court of Joint Registrar, Co-operative Societies, and therefore, the Joint Registrar is not legally competent to pass any order	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

staying the execution. The circumstances under which this order came to be passed is that the Deputy Registrar (respondent No.4) herein passed an order dated 7.12.1998 in a matter moved by respondent No.2 before him for directing the petitioner herein to return the sale deed of plot No.D-66, Devendra Nagar, Raipur, which was equitably mortgaged with the petitioner herein. Against that order dated 7.12.1998 the petitioner herein preferred an appeal before the Joint Registrar, Co-operative Societies, under the provisions of Section 77 of the Chhattisgarh Co-operative Societies Act, 1960, and in that appeal the Joint Registrar stayed the operation and implementation of the order passed by the Deputy Registrar. In the meantime, the order of the Deputy Registrar was sent to the 5th Additional District Judge, Raipur, for its execution, and when the order of the appellate Court i.e. Joint Registrar was placed before the learned Additional District Judge, by the impugned order he refused to obey that order and stay the execution proceedings on the ground as already mentioned.

Prima facie, on the face of it, the order passed by the learned Additional District Judge is perverse and the same is not sustainable. When the order, which was being executed by him, was stayed by a superior authority then the learned Additional District Judge in all possibility ought to have complied with that order. Therefore, for the reasons mentioned above, the order impugned is set aside.

(76)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.4928/ सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Learned counsel for respondent No.2 submitted that the matter is pending since 1998, as such, in the circumstances, the Joint Registrar be directed to decide the appeal expeditiously. The request made by learned counsel for respondent No.2 appears to be just and reasonable. Therefore, the Joint Registrar, Co-operative Societies, is directed to decide the appeal at the earliest, at least within a period of three months from the date of receipt of a copy of this order. With the above observations and direction, the petition stands disposed of. Consequently, M.(W.)P.No.5190/2004, I.A.Nos.9799/2004 and 9800/2004 also stand disposed of. Parties are entitled for certified copy of this order. Sd/- L.C.BHADOO Judge	

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10.2.05